IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
KNOXVILLE DIVISION

XCELIS LLC, **Plaintiff,** **v.** **PLANTRONICS, INC.** **Defendant.**	)))))))))	**CIVIL ACTION NO. _____________** **JURY TRIAL DEMANDED**

COMPLAINT FOR PATENT INFRINGEMENT

Xcelis LLC ("Xcelis" or "Plaintiff") files this complaint against Plantronics, Inc. ("Plantronics" or "Defendant") for infringement of U.S. Patent. No. 7,565,115 ("the '115 Patent" or "Patent-in-Suit"), and hereby alleges as follows:

Nature of the Suit

1. This is a claim for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code. This is a civil action for the infringement of the '115 Patent (attached hereto as Exhibit A) against the Defendant under the Patent Laws of the United States 35 U.S.C. § 1 et seq.

The Parties

2. Xcelis is Nevada limited liability company.

3. Xcelis owns the '115 Patent, which involves technology relating to communication systems for landline and wireless calls.

4. On information and belief, **Plantronics** includes a division called "Clarity" having its principal place of business at 6131 Preservation Drive Chattanooga, TN 37416. Plantronics can be served with process at 800 S Gay St Ste 2021 Knoxville, TN 37929.

5. Through its Clarity Division, Plantronics' makes, uses, sells, offers for sale, and/or imports products and services that infringe the '115 Patent, including without limitation, the BT914 Amplified Big Button Cordless Phone with Bluetooth® Connectivity ("BT914," or "Accused Product"), either directly or indirectly through its subsidiaries or affiliates, to customers throughout the United States, including in this District.

Jurisdiction and Venue

6. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, including 35 U.S.C. § 271 *et seq*., and the Lanham Act, 15 U.S.C. § 1125 *et seq*.

7. Venue is proper in this judicial District pursuant to 28 U.S.C. §§ 1391 and 1400(b). The Defendant resides and transacts business in this District. On information and belief, the Defendant has committed acts of patent infringement in this District.

8. On information and belief, the Defendant is subject to this Court's specific personal jurisdiction pursuant to due process, due at least to its substantial business in this forum, including (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Tennessee and in this judicial District.

The Patent-in-Suit and its Infringement

9. The '115 Patent, titled "Communication System for Landline and Wireless Calls," was duly and legally issued by the United States Patent and Trademark Office on July 21, 2009. Ex. A. Glenroy J. Alexis is the inventor of the '115 Patent.

10. Xcelis is the exclusive owner of all rights, title, and interest in the ’115 Patent, and has the right to sue and recover for any current or past infringement of the ’115 Patent.

11. Xcelis alleges infringement by Plantronics’ BT914 product.

12. Publicly available documents, including text and illustrations, show infringement of at least claim 4 of the ’115 Patent. One such document is titled “User Guide BT914 Amplified Big Button Cordless Phone with Bluetooth® Connectivity” and was created by or on behalf of the Defendant. A true and correct copy of the document is attached as Exhibit B. Its contents are true and accurate in terms of the components and functionality of the BT914. Regarding each of the limitations of claim 4 of the ’115 Patent:

a. The BT914 is a “communication system.” For example, Exhibit B describes BT914 as a “Cordless Phone with Bluetooth® Connectivity.”

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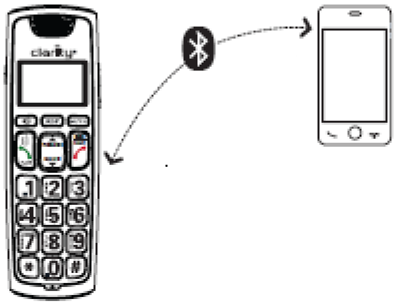
b. The BT914 comprises “a landline communication device comprising circuitry adapted to place and receive calls over a landline communication network.”As an example of this, Exhibit B describes the BT914 as comprising a base station having a telephone line jack located on the back of the base station.

c. The BT914 comprises "interface circuitry connected to a single ring-tip line pair of a landline communication network and to a wireless communication device for a wireless communication network, wherein the interface circuitry selectively connects the landline communication device to the ring-tip line pair so that calls are placed and received by the landline communication device over the landline communication network and to the wireless communication device so that calls are placed and received by the landline communication device over the wireless communication network via the wireless communication device."To illustrate this, Exhibit B describes the BT914 being configured to "Pair and connect your Bluetooth enabled cell phone." Once paired, Exhibit B explains that to make a cell call, "press the **Cell phone** button. Enter the telephone number and then press the **Cell phone** button to dial."



Pair and connect your Bluetooth enabled cell phone

To use a Bluetooth enabled cell phone with your BT914, you must first pair and connect your Bluetooth cell phone(s) with the telephone base. All BT914 handsets can be used to make or answer calls on the cell line. Your cell line is the telephone line associated with your cell phone service.

d. In the BT914 system "the interface circuitry determines whether to place a landline or wireless call in response to a user input."One example of this is where Exhibit B explains that the BT914 has a **Green Phone/Flash Button** to make home calls and a **Cell Phone** button to make cell calls.

Count I – Direct Infringement by Plantronics

13. Paragraphs 1-12 are incorporated by reference as if fully restated herein.

14. The ’115 Patent is valid and enforceable.

15. The Defendant has infringed, and continues to infringe, one or more claims of the ’115 Patent under 35 U.S.C. § 271(a), either literally and/or under the doctrine of equivalents, by making, using, selling, and/or offering for sale in the United States, and/or importing into the United States, products and/or services encompassed by those claims, including for example, by making, using, selling, offering for sale, and/or importing the Accused Product.

16. Third parties, including the Defendant’s customers, have infringed, and continue to infringe, one or more claims of the ’115 Patent under 35 U.S.C. § 271(a), either literally and/or under the doctrine of equivalents, by making, using, selling, and/or offering for sale in the United States, and/or importing into the United States, the Accused Product.

17. The Defendant has knowledge and notice of the ’115 Patent and its infringement at least through the filing and service of the Complaint in this action.

18. The Defendant has induced infringement, and continues to induce infringement, of one or more claims of the ’115 Patent under 35 U.S.C. § 271(b). The Defendant actively, knowingly, and intentionally induced, and continues to actively, knowingly, and intentionally induce, infringement of the ’115 Patent by selling or otherwise supplying the Accused Product with the knowledge and intent that third parties will use, sell, and/or offer for sale in the United States, and/or import into the United States the Accused Product for their intended purpose to infringe the ’115 Patent; and with the knowledge and intent to encourage and facilitate the infringement through the dissemination of the Accused Product and/or the creation and dissemination of documentation and technical information related to the Accused Product.

19. The Defendant has contributed to the infringement by third parties, including the Defendant's customers, and continues to contribute to infringement by third parties, including the Defendant's customers, of one or more claims of the '115 Patent under 35 U.S.C. § 271(c), by selling and/or offering for sale in the United States and/or importing into the United States the Accused Product knowing that those products constitute a material part of the inventions of the '115 Patent, knowing that those products are especially made or adapted to infringe the 115 Patent, and knowing that those products are not staple articles of commerce suitable for substantial noninfringing use.

20. Xcelis has been and continues to be damaged by the Defendant's infringement of the '115 Patent. As such, Xcelis is entitled to an award of money damages from the Defendant. This includes, but is not limited to a reasonable royalty.

21. Since having knowledge of the '115 Patent, the Defendant knew or should have known that, without taking a license to the Patent-in-Suit, its actions continue to infringe one or more claims of the '115 Patent. Therefore, the Defendant's infringement has and will continue to be willful.

22. The Defendant's conduct in infringing the '115 Patent renders this case exceptional within the meaning of 35 U.S.C. § 285.

Prayer for Relief

Wherefore, Plaintiff Xcelis respectfully requests that this Court enter judgment against the Defendant as follows:

1. Adjudging that the claims of the '115 Patent are valid;

2. Adjudging that the Defendant has infringed the Patent-in-Suit;

3. Adjudging that the infringement was willful and that such damages be trebled;

4. Ordering that the Defendant and its officers, agents, servants and employees, privies, and all persons in concert or participation with it be enjoined from further infringement of the Patent-in-Suit;

5. Declaring this to be an exceptional case, and awarding Xcelis attorneys' fees against the Defendant pursuant to 35 U.S.C. § 285;

6. Awarding Xcelis the damages to which it is entitled under 35 U.S.C. § 284, including but not limited to a reasonable royalty, for the Defendant's past infringement and any continuing or future infringement up until the date the Defendant is finally and permanently enjoined from further infringement, and ordering a full accounting of the same;

7. Awarding Xcelis pre-judgment and post-judgment interest on its damages; and

8. Awarding Xcelis such other and further relief in law or equity that the Court deems just and proper.

Demand for Jury Trial

Xcelis hereby demands a trial by jury on all claims and issues so triable.

This 13th day of April, 2017.

WOOLF, McCLANE, BRIGHT, ALLEN
& CARPENTER, PLLC

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